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12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 STAR FABRICS, INC., a California
15 Corporation,

16 Plaintiff,

17 v.

18 FASHION NOVA, INC., a California
19 Corporation; INCREMENTO, INC., a
20 California Corporation; and DOES 1 through
21 10,

22 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR
COPYRIGHT INFRINGEMENT

Jury Trial Demanded

23 Star Fabrics, Inc., by and through its undersigned attorneys, hereby prays to
24 this honorable Court for relief based on the following:

25 **JURISDICTION AND VENUE**

26 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
27 *et seq.*

1 and/or employment; and actively participated in or subsequently ratified and/or
2 adopted each of the acts or conduct alleged, with full knowledge of all the facts and
3 circumstances, including, but not limited to, full knowledge of each violation of
4 Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

5 **CLAIMS RELATED TO DESIGN 69334**

6 (For Copyright Infringement - Against All Defendants, and Each)

7 9. Plaintiff owns an original two-dimensional artwork used for purposes of
8 textile printing entitled 69334 (the "Subject Design") which has been registered with
9 the United States Copyright Office.

10 10. Prior to the acts complained of herein, Plaintiff widely disseminated fabric
11 bearing the Subject Design to numerous parties in the fashion and apparel industries.

12 11. Plaintiff is informed and believes and thereon alleges that following its
13 distribution of the Subject Design, FASHION NOVA, INCREMENTO, DOE
14 Defendants, and each of them distributed and/or sold fabric and/or garments and/or
15 accessories featuring a design which is substantially similar to the Subject Design
16 (hereinafter "Subject Product") without Plaintiff's authorization, including but not
17 limited to products sold by;

18 a. FASHION NOVA under SKU 55326, bearing the label "Fashion
19 Nova," indicating it was manufactured or otherwise distributed by
20 FASHION NOVA.

21 b. Nordstrom bearing the label "Fantastic Fawn" and RN 145751,
22 indicating it was manufactured or otherwise distributed by
23 INCREMENTO.

24 12. An image of Subject Design and one exemplar of Subject Product are set
25 forth hereinbelow:

26
27 ///

Subject Design**Subject Product**

FIRST CLAIM FOR RELIEF

13. Plaintiff repeats, realleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.

14. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Design, including, without limitation, through (a) access to Plaintiff's showroom and/or design library; (b) access to illegally distributed copies of the Subject Design by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) access to garments in the marketplace manufactured with lawfully printed fabric bearing the Subject Design.

15. Plaintiff is informed and believes and thereon alleges that one or more of the Defendants manufactures garments and/or accessories and/or is a garment and/or accessory vendor. Plaintiff is further informed and believes and thereon alleges that

1 said Defendant(s), and each of them, has an ongoing business relationship with
2 Defendant retailers, and each of them, and supplied garments and/or accessories to
3 said retailers, which garments and/or accessories infringed the Subject Design in that
4 said garments and/or accessories were composed of fabric which featured
5 unauthorized print designs that were identical or substantially similar to the Subject
6 Design, or were an illegal modification thereof.

7 16. Plaintiff is informed and believes and thereon alleges that Defendants, and
8 each of them, infringed Plaintiff's copyright by creating, making and/or developing
9 directly infringing and/or derivative works from the Subject Design and by
10 producing, distributing and/or selling Subject Products through a nationwide
11 network of retail stores, catalogues, and through on-line websites.

12 17. Due to Defendants', and each of their, acts of infringement, Plaintiff has
13 suffered damages in an amount to be established at trial.

14 18. Due to Defendants', and each of their, acts of copyright infringement as
15 alleged herein, Defendants, and each of them, have obtained profits they would not
16 otherwise have realized but for their infringement of the Subject Design. As such,
17 Plaintiff is entitled to disgorgement of Defendants', and each of their, profits
18 attributable to the infringement of the Subject Design in an amount to be established
19 at trial.

20 19. Plaintiff is informed and believes and thereon alleges that Defendants, and
21 each of them, have committed copyright infringement with actual or constructive
22 knowledge of Plaintiff's rights such that said acts of copyright infringement were,
23 and continue to be, willful, intentional and malicious.

24 **PRAYER FOR RELIEF**

25 Wherefore, Plaintiff prays for judgment as follows:

- 26 a. That Defendants—each of them—and their respective agents and
27 servants be enjoined from importing, manufacturing, distributing,

1 offering for sale, selling or otherwise trafficking in any product that
2 infringes Plaintiff's copyrights in the Subject Design;

- 3 b. That Plaintiff be awarded all profits of Defendants, and each of them,
4 plus all losses of Plaintiff, the exact sum to be proven at the time of trial,
5 or, if elected before final judgment, statutory damages as available under
6 the Copyright Act, 17 U.S.C. § 101 et seq.;
- 7 c. That Plaintiff be awarded its attorneys' fees as available under the
8 Copyright Act U.S.C. § 101 et seq.;
- 9 d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 10 e. That Plaintiff be awarded the costs of this action; and
- 11 f. That Plaintiff be awarded such further legal and equitable relief as the
12 Court deems proper.

13 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
14 38 and the 7th Amendment to the United States Constitution.

15
16 Dated: April 12, 2018

By: /s/ Stephen M. Doniger
Stephen M. Doniger, Esq.
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DONIGER / BURROUGHS
Attorneys for Plaintiff